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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/553,061

04/26/2006

Thomas Roiser

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04/02/2009

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EXAMINER

AMIRI, NAHID

ART UNIT

PAPER NUMBER

3679

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/553,061	Applicant(s) ROISER, THOMAS	
	Examiner NAHID AMIRI	Art Unit 3679	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 July 2008 and 30 December 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 13, 15, 17-19, 22, 23, 25 and 26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 13, 15, 17-19, 22, 23, 25, and 26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

In view of Applicant's amendments received 29 July 2008 and 30 December 2008, amendments to the claims have been entered. Claims 1-12, 14, 16, 20, 21, and 24 are canceled. Claims 13, 15, 17-19, 22, 23, 25, and 26 are pending.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

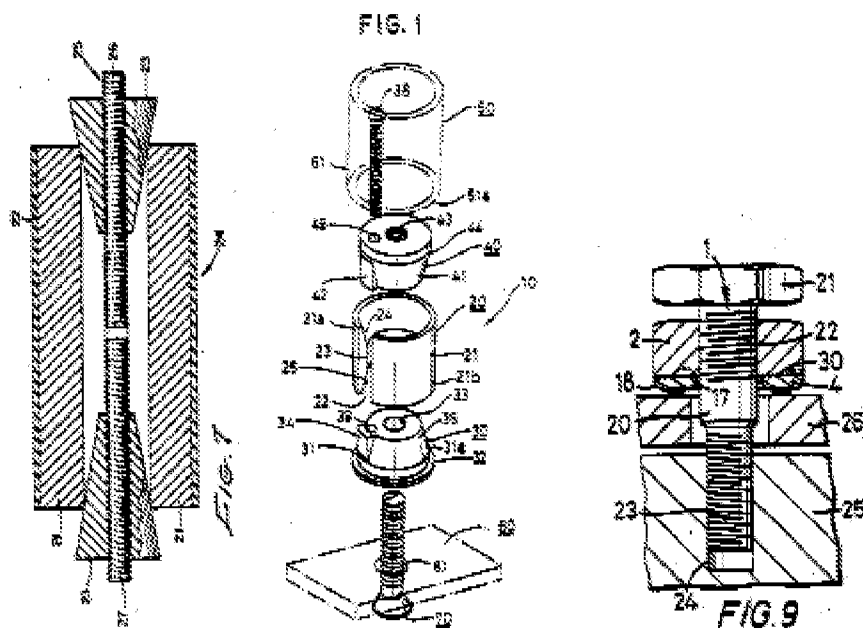
(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 13, 18, 19, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 5,256,237 Maas et al. in view of US Patent No. 5,419,650 Hoshino and further in view of Patent No. 4,704,058 Crunwell.

With respect to claim 13, Maas et al. disclose a clamping device (Fig. 7, Column 4, lines 5+) comprising a threaded rod (25) comprising two threaded sections (26, 27), the two threaded sections (26, 27) having opposing threads, a radially expandable clamping part (constituted by six identical sections 21) which forms a hollow cylinder, two conical expansion bodies (23) located at respective ones of two opposite ends of the clamping part (21); the expansion bodies (23) are each threaded onto the threaded rod (25) wherein the expansion bodies (23) move along the respective one of the different threaded sections (26, 27) to each approach the other to widen the clamping part (21) radially over a length of the clamping part (21). Mass et al. do not disclose that the clamping part is made from one piece with a lengthwise slot; and the thread of a first of the two threaded sections having a larger diameter than the opposing threaded thread of second of the two threaded sections. Hoshino teaches a clamping device (Fig. 1) having a

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radially expandable clamping part (20) with a lengthwise slot (22). It would have been obvious to one of ordinary skill in the art at the time of invention was made to provide the clamping part of Mass et al. from one piece with a lengthwise slot as taught by Hoshino in order to enable the clamping part to expanded radially by the force exerted by the outer peripheral tapered surface of the expansion bodies. Crunwell teaches a threaded part per se (1, Fig. 1) having two threaded sections (22, 23) having opposing threads; wherein a first threaded section (22) has a greater diameter than a second threaded section (23). As taught by Crunwell, the purpose for providing a larger diameter for the innermost thread is so that the nut member may pass over the first, outermost thread without hindrance (e.g., see Column 5, lines 19-21). Thus, whenever the nut members must be assembled from the same end, it is well-known and conventional to provide the innermost threaded portion with a larger diameter. It would have been obvious to one of ordinary skill in the art at the time of invention was made to provide the first threaded section of Maas et al. with a greater diameter than the second threaded section as taught by Crunwell in order one of the expansion bodies slide over the second threaded portion without hindrance and become threadably engaged on the first threaded portion.



With respect to claim 18, Maas et al. disclose (Fig. 7) that expansion bodies (23) with their ends of smaller diameter engage the clamping part (21).

With respect to claim 19, Maas et al. disclose (Fig. 7) that the expansion bodies (23) having greater diameter ends are made to increase friction relative to the material of the outer tube (50).

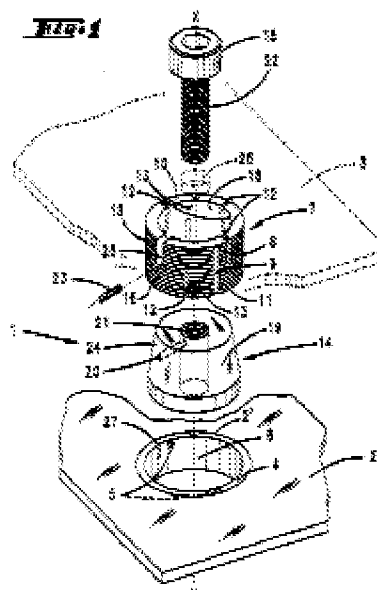
With respect to claim 23, Maas et al. disclose a device (Fig. 7) comprising a threaded part (25) to be inserted into an interior of a tube (22) of the a first interior diameter; a threaded rod projecting from the threaded part (25), and with two threaded sections (26, 27) having opposing threads, two conical expansion bodies (23) having internal threads respectively corresponding to the threads of two threaded sections (26, 27), one expansion body (23) threaded onto each of the two threaded sections (26, 27), a radially expandable clamping part (is constituted by six identical sections 21), the two expansion bodies (23) having smaller diameter ends engaged with the clamping part (21), the clamping part (21) being radially expandable under action of the two expansion bodies (23) being brought together and wherein greater diameter ends of the two expansion bodies (23) are capable of frictionally engage an inner surface of another tube. Maas et al. do not disclose that the clamping part is made from one piece with a lengthwise slot; and the thread of a first of the two threaded sections having a larger diameter than the opposing threaded thread of second of the two threaded sections. Hoshino teaches a clamping device (Fig. 1) having a radially expandable clamping part (20) with a lengthwise slot (22). It would have been obvious to one of ordinary skill in the art at the time of invention was made to provide the clamping part of Mass et al. from one piece with a lengthwise slot as taught by Hoshino in order to enable the clamping part to expanded radially by the force exerted by the outer peripheral tapered surface of the expansion bodies. Crunwell teaches a threaded part (1, Fig. 1) having two threaded sections (22, 23) having opposing threads; wherein a first threaded section (22) has a greater diameter than a second threaded section (23). As taught by Crunwell, the purpose for providing a larger diameter for the innermost thread is so that the nut member may pass over the first, outermost thread without hindrance (e.g., see Column 5, lines 19-21). Thus, whenever the nut members must be assembled from the same end, it is well-known and conventional to

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provide the innermost threaded portion with a larger diameter. It would have been obvious to one of ordinary skill in the art at the time of invention was made to provide the first threaded section of Maas et al. with a greater diameter than the second threaded section as taught by Crunwell in order one of the expansion bodies slide over the second threaded portion without hindrance and become threadably engaged on the first threaded portion.

Claims 15 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maas et al., Hashino and Crunwell as applied to claims 13, 18, 19, and 23 above, and further in view of US Patent No. 6,712,544 B2 Kruger et al.

With respect to claims 15 and 17, Maas et al. and Hashino disclose the claimed invention except for the clamping part has recesses, which proceed from its two ends; and wherein the recesses are offset by 90 degrees to one another on the ends of the hollow cylinder. Kruger et al. teaches a clamping device (Fig. 1) comprises a clamping part (7), the clamping part (7) having recesses (12); and wherein the recesses (12) are offset by 90 degrees to one another on the ends of the hollow cylinder. It would have been obvious to one of ordinary skill in the art at the time of invention was made to provide the clamping part of Maas et al. with recesses are offset by 90 degrees to one another on the ends of the hollow cylinder as taught by Kruger et al. in order for the recesses open out in the direction of insertion of the expansion bodies to pressed the clamping part into the tube.

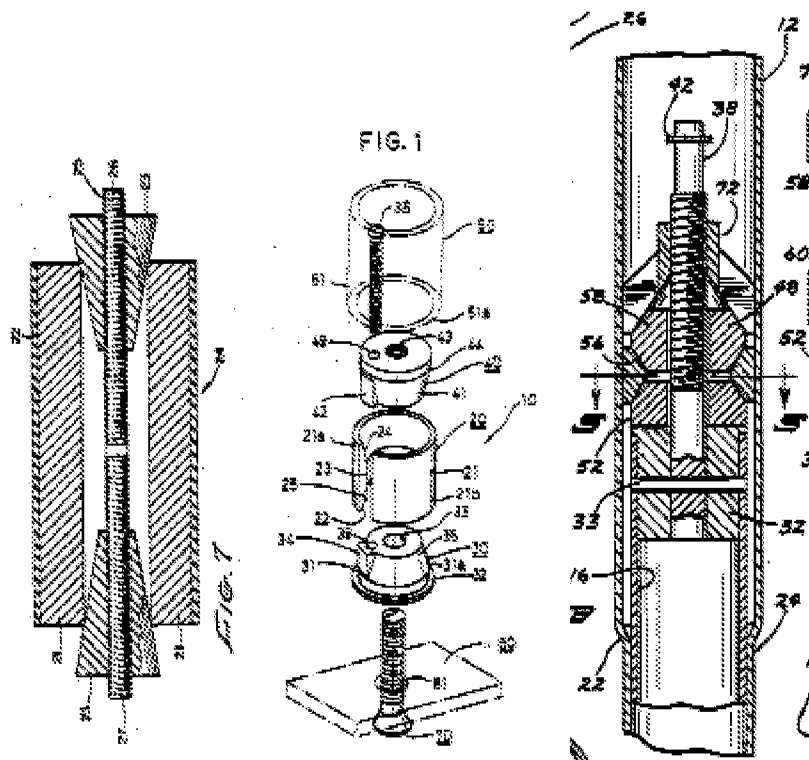


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Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mass et al., Hashino and Crunwell as applied to claims 13, 18, 19, and 23 above, and further in view of US Patent No. 4,134,703 Hinners.

With respect to claim 22, Maas et al. and Hashino disclose the claimed invention except for having a combination of the clamping device and a set of telescoping tubes. Hinners teaches a combination of clamping device and a set of telescoping tubes (12, 16). It would have been obvious to one of ordinary skill in the art at the time of invention was made to provide the clamping device of Maas et al. with a combination of set of telescoping tubes of Hinners in order to adjust the tubes with respect to each other to achieve desirable height for the pole.

Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 5,256,237 Maas et al. in view of US Patent No. 5,419,650 Hoshino and US Patent No. 4,134,703 Hinners.



With respect to claim 25, Maas et al. disclose a device (Fig. 7) comprising a threaded part (25) to be inserted into an interior of a tube (22) of the a first interior diameter; a threaded rod projecting from the threaded part (25), and with two threaded sections (26, 27) having opposing threads, two expansion bodies (23) each threaded onto a respective one of the two oppositely threaded sections (26, 27), the two expansion bodies each capable of engaging a second of the two tubes. Maas et al. do not disclose the clamping device in combination with two poles; and having a slotted, cylindrical clamping part is made from one piece with a lengthwise slot; and the thread of a first of the two threaded sections having a larger diameter than the opposing threaded thread of second of the two threaded sections. Hinnners teaches a combination of a clamping device with two poles (12, 16). It would have been obvious to one of ordinary skill in the art at the time of invention was made to provide the clamping device of Maas et al. with a combination of two poles of Hinnners in order to adjust the tubes with respect to each other to achieve desirable height for the pole. Hoshino teaches a clamping device (Fig. 1) having a slotted clamping part (20) is made from one piece with a lengthwise slot. It would have been obvious to one of ordinary skill in the art at the time of invention was made to provide the clamping part of Maas et al. from one piece with a lengthwise slot as taught by Hoshino in order to enable the clamping part to expanded radially by the force exerted by the outer peripheral tapered surface of the expansion bodies. Applicant does not disclose any criticality with respect to the two threaded sections having two different diameters. Therefore, it would have been an obvious matter of design choice to provide the two threaded sections of the rod with two different diameter, since applicant has not disclosed those different diameter solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with Maas et al.'s invention.

Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 5,256,237 Maas et al. in view of US Patent No. 5,419,650 Hoshino and US Patent No. 4,134,703 Hinnners as applied to claim 25, above, and further in view of Crunwell.

With respect to claim 26, Maas et al. fail to disclose a thread of a first of the two threads sections has a larger diameter than an oppositely threaded thread of a second of the two threaded sections. Crunwell teaches a threaded rod (1, Fig. 1) having a thread of a first of the two threads

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sections (22) has a larger diameter than an oppositely threaded thread of a second of the two threaded sections (23). As taught by Crunwell, the purpose for providing a larger diameter for the innermost thread is so that the nut member may pass over the first, outermost thread without hindrance (e.g., see Column 5, lines 19-21). Thus, whenever the nut members must be assembled from the same end, it is well-known and conventional to provide the innermost threaded portion with a larger diameter. It would have been obvious to one of ordinary skill in the art at the time of invention was made to provide the first threaded section of Maas et al. with a greater diameter than the second threaded section as taught by Crunwell in order one of the expansion bodies slide over the second threaded portion without hindrance and become threadably engaged on the first threaded portion.

Response to Arguments

Applicant's arguments filed 29 July 2008 and 30 December 2008 have been fully considered but they are not persuasive.

With respect to claims 13 and 23, Applicant argues that the previous Office action does not address the recitations of a threaded part (7) comprising a threaded rod (11) configured for attachment to an inner tube (3) of a set of telescoping tubes (3, 5). Further, it is alleged that Maas et al. fail to disclose a threaded rod configured for attachment to an inner tube of a set of telescoping tubes. Further still, Applicant argues that Maas et al. and Hoshino are unrelated arts, and therefore, one of skill would not make, and could not be motivated to provide Maas et al. with expandable clamping parts as taught by Hoshino. Finally, Applicant does not see the relevance of Crunwell to Maas et al. Therefore, it is alleged to be not obvious to provide the threaded rod of Maas et al. with two threaded sections of the Crunwell and the modification proposed by Official action is not viable to provide the threaded rod of Maas et al. with two threaded sections of the Crunwell. This is not persuasive.

Maas et al. clearly show (Fig. 7) a threaded part (25) which is capable of engaging an inner tube of a set of telescoping tubes. Further, in response to Applicant's argument regarding intended use, it has been held that a recitation with respect to the manner in which a claimed

apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987).

In response to Applicant's argument regarding nonanalogous art, it has been held that the determination that a reference is from a nonanalogous art is twofold. First, we decide if the reference is within the field of the inventor's endeavor. If it is not, we proceed to determine whether the reference is reasonably pertinent to the particular problem with which the inventor was involved. *In re Wood*, 202 USPQ 171, 174. In this case, Hoshino clearly teaches expandable clamping part and Crunwell teaches a threaded rod with two threaded sections.

With respect to claims 25-26, Applicant argues that the Hinners teaches a combination of two poles and a clamping device. Further, Applicant argues that Official Action used the hindsight to combine the Mass et al. with Hinners. Further, Applicant argues the one cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention. This is not persuasive.

In response to Applicant's argument that the Examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. *In re McLaughlin*, 443 F.2d 1392; 170 USPQ 209 (CCPA 1971).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after

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the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nahid Amiri whose telephone number is (571) 272-8113. The examiner can normally be reached on Monday through Thursday from 8:00-6:30. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (571) 272-7087. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

March 23, 2009

Nahid Amiri

AU 3679

March 23, 2009

/Daniel P. Stodola/

Supervisory Patent Examiner, Art Unit 3679